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January 27, 2009

Mr. Charles Terreni
Chief Clerk
South Carolina Public Service Commission
Columbia, SC

Dear Mr. Terreni,

As an intervenor in Docket 2008-196-E, I am forwarding herewith my proposed order in this matter. I ask that you distribute it to the Commissioners.

Sincerely,

Ruth Thomas

January 27 2009

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2008-196-E

IN RE: Combined Application of South Carolina Electric &
Gas Company for a Certificate of Environmental
Compatibility and Public Convenience and Necessity
For a Base Load Review Order for the Construction
And Operation of a Nuclear Facility at Jenkinsville,
South Carolina

ORDER DENYING APPLICATION
AND SEEKING ADDITIONAL
INFORMATION AND ANALYSIS
PRIOR TO FINAL COMMISSION DECISION

I. Introduction and Discussion

The Commission conducted hearings on this application by South Carolina Electric and Gas Company in December 2008. A number of questions were raised by intervenors in the course of these hearings, in the pre-filed testimony of intervenors, and in the citizen comments made during the hearings. Among the questions raised were the following:

A. Question: How will the Company's electricity demand forecasts be affected by the drastic changes in economic conditions that have occurred since the company completed work on its forecasts? What is the effect of economic recession on demand growth? If carbon

emission taxes are implemented leading to higher electricity prices from fossil generation, would the resulting electricity price increases affect demand growth? Wouldn't it be prudent to delay the initiation of construction, given that revisions to demand and peak load forecasts are likely to indicate slower growth than the forecasts in the initial application?

Discussion: The Company filed its revised Integrated Resource Plan and its Application in this proceeding in May 2008. The Company's electricity demand forecasts were made and last revised prior to that date. Both the national and state economies have slowed drastically since that time. By the time hearings in this proceeding were held in December 2008, it was clear that an economic recession was in progress. The electricity demand forecasts presented in the testimony of Dr. Joseph Lynch may overstate future demand and peak load growth because the forecasts were made prior to the severity and length of the economic recession now in progress was well understood in the forecasting community. This point was raised in cross-examination of Dr. Lynch, in the testimony of Ms. Brockway, and also in the citizen comments of Dr. Atkins. The South Carolina Climate, Energy and Commerce Committee in its final report issued in July 2008 proposes that South Carolina reduce its greenhouse gas emissions to a level that is 5% below 1990 levels by 2020. The Committee's proposals regarding the electricity sector include meeting 5% of electricity demand by energy efficiency measures and meeting 5% of electricity demand by new renewable resources, achieving both objectives by 2020. Dr. Wilder's testimony pointed out that Dr. Lynch's written testimony failed to mention carbon taxes and how they would affect electricity demand growth through higher electricity prices.

B. Question: Given that the Westinghouse AP1000 generation of reactors has not yet been built anywhere, wouldn't it be prudent to delay initiation of construction until information can be obtained from the experience of others with the construction and operation of this generation of reactors?

Discussion: Exhibit J of the testimony of SCE&G witness Byrne provides a long listing of risks, including those of design risk of the reactor and unanticipated construction difficulties. Dr. Wilder's testimony discussed the learning curve concept and pointed out that

nuclear generation historically has had strong learning effects. Ms. Brockway's testimony discussed the uncertainty in estimating construction costs for this new generation of reactors. The risk of constructing and operating nuclear reactors is shown in a recent Nuclear Regulatory Commission publication: *2008-2009 Information Digest* (NUREG-1350 Vol. 20), Appendix A, B, C and D, available online, which lists the nuclear reactors that have been cancelled after licensing or decommissioned early. If SCE&G is among the first utilities to begin construction of the new reactor design, it faces a greater risk of failure and higher construction and operating costs than those who start construction later and can take advantage of the learning from the experience of others.

C. Question: Should the Commission require the Company to promote demand side management and electricity conservation, as recommended in the final report of the South Carolina Climate, Energy and Commerce Committee? Given that greater attention to demand side management and electricity conservation would cause demand forecasts to be revised downward, shouldn't the initiation of construction be delayed?

Discussion: Dr. Wilder's testimony pointed out that Chapter 37 of Title 58 of the South Carolina Code of Laws states that the PSC "may adopt procedures that encourage electrical utilities and public utilities providing gas services subject to the jurisdiction of the commission to invest in cost-effective energy efficient technologies and energy conservation programs." The testimony of Ms. Brockway pointed to the minimal treatment of demand side management in the Company's testimony. Greater attention to demand side management is also recommended by the South Carolina Climate, Energy and Commerce Committee in its final report in July 2008. The trend toward lower generating costs from renewables, especially solar photovoltaic, was presented in the Wojcicki testimony. Given the cost and risk of the proposed reactor construction, and given the cost and risk disadvantage of being an early adopter of this new generation of reactor technology, greater attention to energy conservation and renewables as an alternative to, or supplement to, reactor construction is in order. The adoption of procedures to promote energy conservation programs by the Commission would require the Company's electricity demand forecasts to be reworked to reflect a greater potential for electricity conservation.

D. Question: Does the Office of Regulatory Staff fairly represent the consumer point of view in these proceedings? Should it present testimony reflecting the effect on consumers of this proceeding? Should its Executive Director be subject to cross-examination on the position taken by the ORS?

Discussion: The Office of Regulatory Staff witnesses did not adequately address the effect on consumers or the point of view of consumers regarding the Company's application. On October 17 2008, six weeks prior to the beginning of the hearings in this Proceeding, the ORS issued a press release stating that it would recommend to the Commission that the Company's application be approved with minor changes, but failing to mention what the effect on electricity consumers would be. Rather than doing its own evaluation, the ORS hired consultants to carry out its work on the major issues. The consultants, rather than ORS staff or its Executive Director, stated in pre-filed testimony the conclusion of the ORS supporting the Company's application. Thus, the ORS stated its conclusion in advance of the hearing, rather than waiting to hear the comments of consumers and cross-examination of company and consumer witnesses. This behavior by the ORS does not comply with its charge in the enabling legislation, which is to represent a balance among three essential components: "the concerns of the using and consuming public; the financial integrity of public utilities; and the economic development of South Carolina." In particular, it is the concerns of the using and consuming public that is missing in this Proceeding.

II. Findings of Fact

Based on the testimony presented and the questions raised in cross-examination in this Proceeding, the Commission makes the following findings of fact:

A. There is substantial evidence that the electricity demand forecasts of the Company are not valid. The onset of economic recession since the demand forecasts were prepared, along with the lack of attention by the Company's forecasters to the effects of increased levels of demand side management and future carbon taxes on electricity prices support this conclusion.

B. Testimony presented and cross-examination questions asked by the intervenors raise serious questions about the risks associated with early construction and operation of the new generation AP1000 reactors in this Proposal. The risks include unexpected delays and unanticipated failures of the new reactor technology. The passage of time would allow the Company to benefit from the experience of others and reduce the risks of failure, cost over-runs and delays in construction.

C. The Office of Regulatory Staff failed to present the point of view of electricity consumers in its testimony and the testimony of its hired consultants. The Office of Regulatory Staff reached its conclusions prematurely before the hearings began.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The application in this Proceeding is denied.
2. SCE&G shall present revised demand forecasts that take into account the factors discussed in II. A. (Above) and will revise the base load review to reflect the effects of these revisions. The Company will also consider and testify regarding whether these revisions affect its application to build the reactors and/or the timing of the construction of the reactors.
3. The ORS shall present additional testimony by its own staff regarding the effect on consumers of the application in this Proceeding. The ORS shall comply with its enabling legislation.
4. An additional hearing shall be held in this Docket to consider the effects of these revisions on the Company's revised application.

Signed _____

Chair of the Commission

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South Carolina

CERTIFICATE OF SERVICE

This is to certify that I, Ron Wilder, acting of behalf of intervenor Ruth Thomas, have this date served one copy of the Proposed Order of Ruth Thomas by email to the parties shown below:

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Ron Wilder
January 28, 2009